

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/838,781	HUNDEMER, HANK	
	<b>Examiner</b>	Art Unit	
	Frank Duong	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 3/31/05.

2.  The allowed claim(s) is/are 27-34, 40-54, 56 (now 1-24, respectively).

3.  The drawings filed on 20 April 2001 are accepted by the Examiner.

4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached

1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application (PTO-152)
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is a response to communications dated 03/31/05. Claims 27-34, 40-54 and 56 are pending in the application.

### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Floyd B. Chapman on 6/3/05.

The application has been amended as follows:

#### **In the Claims:**

**Claim 40**, line 14, please kindly replace "points." with --, wherein said characteristics comprise bandwidth availability data for one or more of the digital broadcast origination points.--.

**Claim 50**, line 17, please kindly change "may be" to --are--.

**Claim 56**, line 20, please kindly replace "points." with --, wherein said characteristics comprise bandwidth availability data for one or more of the digital broadcast origination points.--.

***Allowable Subject Matter***

3. Claims 27-34, 40-54 and 56 are allowed.
4. The following is an examiner's statement of reasons for allowance: The prior art of record, considered individually or in combination, fails to fairly show or suggest the claimed novel and unobvious limitations of "*including a vacate instruction in said digital broadcast that instructs one or more of the client computer systems to stop listening to one of the original points and to identify a different one of the plurality of broadcast origination points to start listening to; and receiving a routing information update from one of the client computer systems, said routing information update request future digital broadcasts from the identified different one of the plurality of broadcast origination points*", as recited in claims 27-28; *beacon signal that provides transmission characteristics for one or more of the broadcast origination points, wherein the characteristics comprise bandwidth availability data for one or more of the digital broadcast origination points*, as recited in claims 29-34, 40-49 and 56; and "*transmission a second digital broadcast transmission from the selected broadcast origination point to one or more of the client computer systems, the second transmission broadcast including a beacon signal that provides transmission information about one or more of the plurality of broadcast origination points to permit a client computer system to select a broadcast origination point, whereby transmission loads are dynamically and automatically equalized among said plurality of broadcast origination points*", as recited in claims 50-54.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is 571-272-3164. The examiner can normally be reached on 7:00AM-3:30PM, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



FRANK DUONG  
PRIMARY EXAMINER

June 3, 2005